IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.2480 OF 2004

Pandharinath Kaluram Gavhane : Petitioner

V/s.

Anil Barku Gavhane & Anr. : Respondents

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Mr.R.S. Apte with Mr.A.A. Garge for the petitioner.

Mr.C.R.Anekar for the respondents.

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CORAM : S.A. BOBDE, J.

March 22, 2005.

P.C.:

1. The petitioner has sued the respondents for an injunction restraining them from disturbing the petitioner's possession of the suit land. Both the Courts below have found concurrently that the petitioner is not entitled to an injunction on the basis of Taba Sathe Khat dated 21.9.1994 under which the respondents are said to have purchased the suit land for Rs.2,50,000/- from Anil Kolhe. Prima facie, there appears to be sufficient evidence in the form of mutation entry. The petitioner's rival claim is that he has purchased the same land from Ramrao Jagtap by sale deed dated 4.7.2003 and that Ramrao Jagtap had purchased it from Anil Bhagwant Kolhe on

7.9.2002. According to the petitioner, Anil Kolhe could, therefore, not have sold it to the respondents by a registered sale deed dated 21.10.2003. The Courts below, however, have prima facie found that though the Taba Sathe Khat was in favour of the respondents and it was executed on 21.9.1994, it has admittedly not been challenged by the petitioner in the civil suit. The appellate Court has rightly deferred the consideration of the petitioner's contention that the Taba Sathe Khat is not valid since it is not registered under section 17 of the Indian Registration Act for the final adjudication of the suit. It further appears from the revenue record, vide para 12 of the appellate Court's order, that the Taba Sathe Khat was executed on 21.9.1994 by Anil Kolhe prior to the execution of the sale deed by Anil Kolhe in favour of Ramrao Jagtap from whom the petitioner has purchased the land. The impugned order cannot be interfered with as there is no error of law, jurisdictional or otherwise, committed by the Courts below.

2. The petition, therefore, is liable to be dismissed. However, having regard to the circumstances of the case, the trial Court is requested to decide the civil suit, as expeditiously as possible, and, in any case, not later than one year from today.

Sd/-

S.A. BOBDE, J.